

# **RHNA 4<sup>TH</sup> REVISION SUBREGIONS**

## **SAN FRANCISCO BAY AREA ASSOCIATION OF BAY AREA GOVERNMENTS**

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## INTRODUCTION

This is a working document compiled by the planning and research staffs of, and Legal Counsel to, the Association of Bay Area Governments (ABAG). ABAG is the council of governments responsible for conducting the Regional Housing Need Allocation process (“RHNA”). This document is the current staff interpretation of the statute that governs RHNA and of a September 29, 2005 letter from the California Department of Housing and Community Development (HCD). The letter grants ABAG an extension of time to perform RHNA under certain conditions and timelines.

RHNA is a process triggered by HCD’s determination of the number of housing units which must be provided to meet the regional need. ABAG’s role is to allocate the regional need among local governments in the region. Before HCD’s release of the housing need number, ABAG is required to survey local governments for data. ABAG will use this data to develop and adopt a “methodology” for allocating the regional need. The methodology will be developed and adopted before HCD releases the housing need number.

Once HCD releases the housing need number, ABAG applies the adopted methodology and generates initial draft allocations to local governments. Local governments may request revisions to the initial draft allocation. After consideration of these requests, ABAG will issue final draft allocations. Local governments can then appeal these final draft allocations. After consideration of the appeals, ABAG will issue the final allocations for public comment and submission to HCD to review for compliance with the RHNA law.

In this fourth revision of RHNA, there is an opportunity for local governments to form subregions. The subregions will devise their own methodology. ABAG will assign a subregional share of the regional housing need to each subregion. Each subregion will apply its methodology to the subregional share to produce an initial draft allocation of this share to each local government in the subregion. Each subregion will undertake the revision, appeal and final allocation process described above, except that it will submit the final allocation to ABAG for submission to HCD. ABAG will be required to allocate the subregional share to local governments in the subregion if the subregion does not successfully negotiate a critical step or fails to complete the process.

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This document was created using the following techniques and rules:

- Create a narrative guide describing RHNA
- Use text extracted from sections of the statute that governs RHNA and from the HCD extension letter
- Modify grammar, rearrange text and add connectors only as necessary to clarify meaning
- Identify source of language in sidebar text
- Identify and describe where and how the document interprets the source material in sidebar text
- Identify unresolved ambiguities in sidebar text
- Insert “real time” information about the process to improve clarity and utility

The document is a reference tool for ABAG staff, the Housing Methodology Committee (HMC) and interested members of the public. It will be revised or updated based on feedback and use experience. Please provide feedback to [rhnatalk@abag.ca.gov](mailto:rhnatalk@abag.ca.gov)

# RHNA 4<sup>TH</sup> REVISION – SF BAY AREA (ABAG)

## - SUBREGIONS -

**Comment:** All alphanumeric sequences appearing in a “Comment” are references to the CA Govt. Code (2006). Mere listing of the section means the associated passage is a near verbatim reproduction of the referenced section.

### I. FORMATION AND PROCESS

Subregions may form **no later than August 31, 2006**, for the purpose of allocating the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to 65584.04.

**Comment:** 65584.03(a). Deadline from HCD Schedule attached to time extension letter dated September 29, 2005.

At least two or more cities and a county, or counties may form a subregion.

**Comment:** 65584.03(a)  
• Interpreted as three separate and independent grants of authority to form a specific type of subregion.  
• The proposed subregion must fit one of the descriptions.  
• Cities need not be located in the county or counties that are part of the subregion.

A subregion formed pursuant to this section may include a single county and each of the cities in that county.

A subregion formed pursuant to this section may include any other combination of geographically contiguous local governments.

**Comment:** 65584.03(a)  
• Interpreted as three separate and independent grants of authority to form a specific type of subregion..

A subregion shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by ABAG.

**Comment:** 65584.03(a)  
• Interpreted as three separate and independent grants of authority to form a specific type of subregion.  
• The proposed subregion must fit one of the descriptions.

ABAG and subregion(s) enter into “delegation agreements” setting forth the process, timing and other terms and conditions of the delegation of responsibility by ABAG to the subregion(s).

**Comment:** 65584.033(a)  
• Requires approval by ABAG in the form of a resolution.  
• ABAG Executive Board meets in July and September. May need to involve Administrative Committee

ABAG engaged in data collection and development during June 2006 to Fall/Winter 2006. Subregions are required to use this data as source information for the methodology for allocating the subregional need.

**Comment:** 65584.03(b)  
• Ideally, delegation agreements will be signed prior to August 31, 2006.  
• If necessary, parties could agree that ABAG's approval by the August 31 deadline be conditioned on successful negotiation of a delegation agreement.

### II. DEVELOPMENT OF METHODOLOGY

**December 31 2006**, subregion completes development of a proposed methodology and begins a 60 day comment period with at least one public hearing.

**Comment:** 65584.03(b)(3)

**By March 2007**, subregion shall adopt a final methodology for distributing the existing and projected subregional housing need to cities, counties, and cities and counties within the subregion. The methodology shall be consistent with these objectives (**Objectives**):

**Comment:** Date from HCD Schedule. Otherwise from 65584.04(c) and (h).

- Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the subregion in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low and very low income households.

**Comment:** From HCD Schedule. Otherwise, per 65584.04(a) it's “at least by [June 2007]”

**Comment:** 65584.04(a)

**Comment:** 65584.04(a)

**Comment:** 65584(d)(1)

- Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

**Comment:** 65584(d)(2)

- Promoting an improved intraregional relationship between jobs and housing.

**Comment:** 65584(d)(3)

- Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

**Comment:** 65584(d)(4)

Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the subregional housing needs. Participation by organizations other than local jurisdictions and the subregion shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The subregion shall conduct at least one public hearing to receive oral and written comments during a 60 day comment period on the proposed methodology.

**Comment:** 65584.04 (c)  
Except for the requirement that the subregion hold a public hearing on the proposed methodology, the detailed public participation and outreach requirements of 65584.04(c) are not explicitly prescribed for subregions. Included here as guidance.

**Comment:** 65584.04(h)

**Comment:** 65584.04(c)  
HCD Schedule locates this period in January – March 2007.

The following shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology:

- proposed methodology,
- any relevant underlying data and assumptions,
- explanation of how information about local government conditions has been used to develop the proposed methodology,
- explanation of how each of the Factors is incorporated into the methodology, and
- how the methodology is consistent with the Objectives.

**Comment:** Process described in 65584.04(c). Not specifically prescribed for subregions. Included here for guidance.

**Comment:** Finding is required under 65584.04(e). Distribution of this bullet item is not required under 65584.04(c) but it is included for completeness and because 65584.04(e) requires the finding be made in writing.

**Comment:** 65584.04(e)

**Comment:** 65584.04(f)

The methodology may include numerical weighting.

Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the subregional housing need.

In addition to the Factors, subregion shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments.

**Comment:** 65584.04(g)

After making any revisions deemed appropriate by subregion, as a result of comments received during the public comment period, subregion shall adopt a final subregional housing need allocation methodology and provide notice of the adoption of the methodology to member jurisdictions and to HCD.

**Comment:** 65584.04(h)

**Comment:** ABAG intends to assign shares within 21 days after receiving regional housing need from HCD.

### III. RECEIPT OF SUBREGIONAL SHARE FROM ABAG

No later than May 1, 2007, ABAG shall determine the share of regional housing need assigned to each subregion. ABAG shall hold at least one public hearing to consider requests for revision of the proposed allocation to a subregion. If a proposed revision is rejected, ABAG shall respond with a written explanation.

**Comment:** May 1 deadline is from HCD Schedule. Otherwise, per 65584.03(c), "at least 25 months prior to the scheduled revision".

Note the ABAG 5/2/06 memo to the cities re creation of subregions states that ABAG intends to assign the subregional need within 21 days of receipt of the regional number from HCD which HCD has promised to deliver on March 1, 2007.

**Comment:** 65584.03(c)

The share or shares allocated to the subregion(s) by ABAG shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan.

Comment: 65584.03(c)

#### IV. CIRCULATION OF DRAFT RHNA ALLOCATIONS FOR REVISIONS AND APPEALS

**Before June 30, 2007**, the subregion shall distribute a draft allocation of regional housing needs to each local government in the region. The draft allocation shall include the underlying data and methodology on which the allocation is based.

Comment: From HCD schedule. Otherwise, 65584.05(a) requires "at least one and one half years prior to the scheduled revision".

**Before June 30, 2007**, ABAG reviews draft allocations by each subregion for compliance with

Comment: 65584.05(a)

- statutory requirements
- subregional delegation agreement and
- completeness of allocation.

Comment: Note, this could include allocations of subregional shares from subregions that ABAG finds to be noncompliant under HCD extension letter.

Finding of noncompliance results in ABAG making the allocation.

Comment: Applies HCD schedule to subregions. Otherwise, language is "at least one and one half years prior to the scheduled revision".

It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan.

Comment: HCD Schedule requires ABAG to review draft subregional allocation for compliance with Objectives, 65584.03(d), and complete allocation if noncompliant.

Within 60 days following receipt of the draft allocation but no later than August 31, 2007, a local government may request from the subregion a revision of its share of the regional housing need in accordance with the Factors, including any information submitted by the local government to ABAG.

Comment: 65584.05(a)

The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

Comment: 65584.05(b). HCD schedule sets August 31, 2007 deadline.

Comment: 65584.05(b)

Within 60 days after the request for a revised share but **no later than October 31 2007**, the subregion shall make a decision on the request for revision by accepting the proposed revision, modifying its earlier determination, or indicating, based on the information and methodology described in 65584.04, why the proposed revision is inconsistent with the regional housing need.

Comment: 65584.05(c) HCD schedule sets October 31 2007 deadline.

If the subregion does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting the local government, it may appeal its draft allocation based upon either or both of the following criteria:

Comment: 65584.05(d).

- the subregion failed to adequately consider the information submitted during the methodology survey or a significant and unforeseen change in circumstances has occurred in the local government that merits a revision of the information submitted pursuant to that survey.
- the subregion failed to determine the local government's share of the regional housing need in accordance with the information submitted during the methodology survey and the methodology.

• Are local jurisdictions restricted to these reasons when filing an appeal?  
• Arguments that support allowing a broader range of reasons for appeal are:  
- a local jurisdiction can ask for a revision under 65584.05(b) in which the local jurisdictions can raise a broader range of issues than are articulated by 65584.05(d)(1) or (2) (see above).  
- ABAG is required by 65584.05(e) to consider a broader range of criteria in deciding the appeal than could be raised by the local jurisdiction if it is limited by 65584.05(d)(1) and (2).

Comment: 65584.05(d)(1) cross reference to 65584.04(b)

Comment: 65584.05(d)(1)

Comment: 65584.05(d)(2)

The subregion shall conduct public hearings to hear all appeals within 60 days of the date established to file appeals, but in any event in the **January to April 2008** timeframe.

**Comment:** 65584.05(e). HCD schedule places this 60 day period in the January through April 2008 timeframe.

The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days from the date of the notification.

**Comment:** 65584.05(e)

Before taking action on an appeal, the subregion shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant.

The final action of the subregion shall be in writing and shall include information and other evidence explaining how its action is consistent with the RHNA law.

**Comment:** 65584.05(e)

**Comment:** 65584.05(e)

The final action on an appeal may require the subregion to adjust the allocation of a local government that is not the subject of an appeal.

**Comment:** 65584.05(e) with addition from HCD schedule that requires either or both the public hearing and/or the final decisions on the subregional allocation occur before the regional allocation.

## V. CIRCULATION OF FINAL RHNA ALLOCATIONS FOR REVIEW AND ALLOCATION

**Comment:** 65584.05(f). April 30 deadline from HCD schedule.

Within 45 days of the issuance of the proposed final subregional allocation plan(s), and prior to ABAG's public hearing on the proposed final regional allocation plan (June 2008), **but no later than March 31, 2008**, each subregion shall hold a public hearing to adopt a final subregional allocation plan.

**Comment:** Questions about the transfers under 65584.05(g) include:  
•Is there a deadline for such agreements to be made?  
•How is the agreement evidenced or documented?  
•Are transfers of affordability based units only permitted?

The proposed final allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

**Comment:** 65584.05(g)

Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the subregion shall include the alternative distribution in the final allocation plan.

**Comment:** From HCD Schedule.  
•Potential timing problem with HCD dates for  
- appeals of regional and subregional draft allocations  
- public hearings on appeals of draft allocations  
- issuance of final regional and subregional allocations  
- public hearings on final allocations.  
•Problems can only be resolved through the delegation agreements with subregions, if they form.  
•Additional issues are generated by ABAG's obligation to allocate a subregion's share among the members of the subregion if the subregion fails to allocate. Failure can occur at any time prior to the due date for the final subregional allocation.  
•Should there be a special process or methodology for ABAG allocating a subregion's share?  
•Does it make difference whether ABAG is allocating the subregion's share during the draft allocation phase (pursuant to the authority/obligation in the HCD Schedule) or during afterwards?

If the adjustments total 7 percent or less of the subregion's share of the regional housing need then the subregion shall distribute the adjustments proportionally to all jurisdictions in the subregion. If the adjustments total more than 7 percent of the subregion's share of the regional housing need, then the subregion shall develop a methodology to distribute the amount greater than the 7 percent to jurisdictions in the subregion.

**Before April 30, 2008**, subregion(s) adopt, and submit to ABAG, final subregional allocation(s).

**Comment:** 65584.03(d) and 65584.05(a)

Each subregion shall fully allocate its share of the subregion's share of the regional housing need to local governments within the subregion.

If a subregion fails to complete the regional housing need allocation process among its members in a manner consistent with the Housing Element law and with the delegation agreement between the subregion and ABAG, the allocations to members of the subregion shall be made by ABAG.

**Comment:** 65584.03(d)  
See above comments about potential timing problems.



# **ATTACHMENT A**

## **STATUTORY REFERENCES**

### **EXCERPTS FROM HOUSING ELEMENT LAW**

**EXCERPTS FROM**  
**HOUSING ELEMENT LAW**  
CALIFORNIA GOVERNMENT CODE  
(2006)

**§ 65580. Legislative finding**

The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every Californian, including farmworkers, is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

**§ 65581. Legislative intent**

It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

**§ 65582. Definitions**

As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Council of governments" means a single or multicounty council created by a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 1 of Title 1.

(c) "Department" means the Department of Housing and Community Development.

(d) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

§ 65583. Housing element - OMITTED

§ 65583.1. Authority of city or county to identify adequate sites - OMITTED

§ 65583.2. Sites that can be developed within the planning period that are sufficient to meet jurisdiction's housing needs - OMITTED

§ 65584. City's or county's share of regional housing needs

(a)(1) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the department shall determine the existing and projected need for housing for each region pursuant to this article. For purposes of subdivision (a) of Section 65583, the share of a city or county of the regional housing need shall include that share of the housing need of persons at all income levels within the area significantly affected by the general plan of the city or county.

(2) While it is the intent of the Legislature that cities, counties, and cities and counties should undertake all necessary actions to encourage, promote, and facilitate the development of housing to accommodate the entire regional housing need, it is recognized, however, that future housing production may not equal the regional housing need established for planning purposes.

(b) The department, in consultation with each council of governments, shall determine each region's existing and projected housing need pursuant to Section 65584.01 at least two years prior to the scheduled revision required pursuant to Section 65588. The appropriate council of governments, or for cities and counties without a council of governments, the department, shall adopt a final regional housing need plan that allocates a share of the regional housing need to each city, county, or city and county at least one year prior to the scheduled revision for the region required by Section 65588. The allocation plan prepared by a council of governments shall be prepared pursuant to Sections 65584.04 and 65584.05 with the advice of the department.

(c) Notwithstanding any other provision of law, the due dates for the determinations of the department or for the councils of governments, respectively, regarding the regional housing need may be extended by the department by not more than 60 days if the extension will enable access to more recent critical population or housing data from a pending or recent release of the United States Census Bureau or the Department of Finance. If the due date for the determination of the department or the council of governments is extended for this reason, the department shall extend the corresponding housing element revision deadline pursuant to Section 65588 by not more than 60 days.

(d) The regional housing needs allocation plan shall be consistent with all of the following objectives:

(1) Increasing the housing supply and the mix of housing types, tenure, and affordability in all cities and counties within the region in an equitable manner, which shall result in each jurisdiction receiving an allocation of units for low and very low income households.

(2) Promoting infill development and socioeconomic equity, the protection of environmental and agricultural resources, and the encouragement of efficient development patterns.

(3) Promoting an improved intraregional relationship between jobs and housing.

(4) Allocating a lower proportion of housing need to an income category when a jurisdiction already has a disproportionately high share of households in that income category, as compared to the countywide distribution of households in that category from the most recent decennial United States census.

(e) For purposes of this section, "household income levels" are as determined by the department as of the most recent decennial census pursuant to the following code sections:

(1) Very low incomes as defined by [Section 50105 of the Health and Safety Code](#).

(2) Lower incomes, as defined by [Section 50079.5 of the Health and Safety Code](#).

(3) Moderate incomes, as defined by [Section 50093 of the Health and Safety Code](#).

(4) Above moderate incomes are those exceeding the moderate income level of [Section 50093 of the Health and Safety Code](#).

(f) Notwithstanding any other provision of law, determinations made by the department, a council of governments, or a city or county pursuant to this section or Section 65584.01, 65584.02, 65584.03, 65584.04, 65584.05, 65584.06, or 65584.07 are exempt from the California Environmental Quality Act (Division 13 (commencing with [Section 21000](#)) of the Public Resources Code).

**§ 65584.01.** Determination of existing and projected need for regional housing

(a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c)(1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (E), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d)(1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

#### **§ 65584.02.** Alternative process for determining regional housing needs

(a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. For a housing element update due date pursuant to Section 65588 that is prior to January 2007, the department may approve a request that is submitted prior to December 31, 2004, notwithstanding the deadline in this paragraph. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

The council of governments may include a request to extend the housing element deadline pursuant to Section 65588 to a date not to exceed two years, for the purpose of coordination with the scheduled update of a regional transportation plan pursuant to federal law.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

#### **§ 65584.03. Subregional entities**

(a) At least 28 months prior to the scheduled housing element update required by Section 65588, at least two or more cities and a county, or counties, may form a subregional entity for the purpose of allocation of the subregion's existing and projected need for housing among its members in accordance with the allocation methodology established pursuant to Section 65584.04. The purpose of establishing a subregion shall be to recognize the community of interest and mutual challenges and opportunities for providing housing within a subregion. A subregion formed pursuant to this section may include a single county and each of the cities in that county or any other combination of geographically contiguous local governments and shall be approved by the adoption of a resolution by each of the local governments in the subregion as well as by the council of governments. All decisions of the subregion shall be approved by vote as provided for in rules adopted by the local governments comprising the subregion or shall be approved by vote of the county or counties, if any, and the majority of the cities with the majority of population within a county or counties.

(b) Upon formation of the subregional entity, the entity shall notify the council of governments of this formation. If the council of governments has not received notification from an eligible subregional entity at least 28 months prior to the scheduled housing element update required by Section 65588, the council of governments shall implement the provisions of Sections 65584 and 65584.04. The delegate subregion and the council of governments shall enter into an agreement that sets forth the process, timing, and other terms and conditions of the delegation of responsibility by the council of governments to the subregion.

(c) At least 25 months prior to the scheduled revision, the council of governments shall determine the share of regional housing need assigned to each delegate subregion. The share or shares allocated to the delegate subregion or subregions by a council of governments shall be in a proportion consistent with the distribution of households assumed for the comparable time period of the applicable regional transportation plan. Prior to allocating the regional housing needs to any delegate subregion or subregions, the council of governments shall hold at least one public hearing, and may consider requests for revision of the proposed

allocation to a subregion. If a proposed revision is rejected, the council of governments shall respond with a written explanation of why the proposed revised share has not been accepted.

(d) Each delegate subregion shall fully allocate its share of the regional housing need to local governments within its subregion. If a delegate subregion fails to complete the regional housing need allocation process among its member jurisdictions in a manner consistent with this article and with the delegation agreement between the subregion and the council of governments, the allocations to member jurisdictions shall be made by the council of governments.

**§ 65584.04.** Development of methodology for distributing regional housing need to cities and counties

(a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b)(1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs. Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (8) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

(7) High housing costs burdens.

(8) The housing needs of farmworkers.

(9) Any other factors adopted by the council of governments.

(e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.

(f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.

(g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.

(h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final



regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.

**§ 65584.05.** Distribution of draft allocation of regional housing needs to local governments

(a) At least one and one-half years prior to the scheduled revision required by Section 65588, each council of governments and delegate subregion, as applicable, shall distribute a draft allocation of regional housing needs to each local government in the region or subregion, where applicable, based on the methodology adopted pursuant to Section 65584.04. The draft allocation shall include the underlying data and methodology on which the allocation is based. It is the intent of the Legislature that the draft allocation should be distributed prior to the completion of the update of the applicable regional transportation plan. The draft allocation shall distribute to localities and subregions, if any, within the region the entire regional housing need determined pursuant to Section 65584.01 or within subregions, as applicable, the subregion's entire share of the regional housing need determined pursuant to Section 65584.03.

(b) Within 60 days following receipt of the draft allocation, a local government may request from the council of governments or the delegate subregion, as applicable, a revision of its share of the regional housing need in accordance with the factors described in paragraphs (1) to (9), inclusive, of subdivision (d) of Section 65584.04, including any information submitted by the local government to the council of governments pursuant to subdivision (b) of that section. The request for a revised share shall be based upon comparable data available for all affected jurisdictions and accepted planning methodology, and supported by adequate documentation.

(c) Within 60 days after the request submitted pursuant to subdivision (b), the council of governments or delegate subregion, as applicable, shall accept the proposed revision, modify its earlier determination, or indicate, based upon the information and methodology described in Section 65584.04, why the proposed revision is inconsistent with the regional housing need.

(d) If the council of governments or delegate subregion, as applicable, does not accept the proposed revised share or modify the revised share to the satisfaction of the requesting party, the local government, may appeal its draft allocation based upon either or both of the following criteria:

(1) The council of governments or delegate subregion, as applicable, failed to adequately consider the information submitted pursuant to subdivision (b) of Section 65584.04, or a significant and unforeseen change in circumstances has occurred in the local jurisdiction that merits a revision of the information submitted pursuant to that subdivision.

(2) The council of governments or delegate subregion, as applicable, failed to determine its share of the regional housing need in accordance with the information described in, and the methodology established pursuant to Section 65584.04.

(e) The council of governments or delegate subregion, as applicable, shall conduct public hearings to hear all appeals within 60 days of the date established to file appeals. The local government shall be notified within 10 days by certified mail, return receipt requested, of at least one public hearing on its appeal. The date of the hearing shall be at least 30 days and not more than 35 days from the date of the notification. Before taking action on an appeal, the council of governments or delegate subregion, as applicable, shall consider all comments, recommendations, and available data based on accepted planning methodologies submitted by the appellant. The final action of the council of governments or delegate subregion, as applicable, on an appeal shall be in writing and shall include information and other evidence explaining how its action is consistent with this article. The final action on an appeal may require the council of governments or delegate subregion, as applicable, to adjust the allocation of a local government that is not the subject of an appeal.

(f) The council of governments or delegate subregion, as applicable, shall issue a proposed final allocation within 45 days of the completion of the 60-day period for hearing appeals. The proposed final

allocation plan shall include responses to all comments received on the proposed draft allocation and reasons for any significant revisions included in the final allocation.

(g) In the proposed final allocation plan, the council of governments or delegate subregion, as applicable, shall adjust allocations to local governments based upon the results of the appeals process specified in this section. If the adjustments total 7 percent or less of the regional housing need determined pursuant to Section 65584.01, or, as applicable, total 7 percent or less of the subregion's share of the regional housing need as determined pursuant to Section 65584.03, then the council of governments or delegate subregion, as applicable, shall distribute the adjustments proportionally to all local governments. If the adjustments total more than 7 percent of the regional housing need, then the council of governments or delegate subregion, as applicable, shall develop a methodology to distribute the amount greater than the 7 percent to local governments. In no event shall the total distribution of housing need equal less than the regional housing need, as determined pursuant to Section 65584.01, nor shall the subregional distribution of housing need equal less than its share of the regional housing need as determined pursuant to Section 65584.03. Two or more local governments may agree to an alternate distribution of appealed housing allocations between the affected local governments. If two or more local governments agree to an alternative distribution of appealed housing allocations that maintains the total housing need originally assigned to these communities, then the council of governments shall include the alternative distribution in the final allocation plan.

(h) Within 45 days of the issuance of the proposed final allocation plan by the council of governments and each delegate subregion, as applicable, the council of governments shall hold a public hearing to adopt a final allocation plan. To the extent that the final allocation plan fully allocates the regional share of statewide housing need, as determined pursuant to Section 65584.01, the council of governments shall have final authority to determine the distribution of the region's existing and projected housing need as determined pursuant to Section 65584.01. Within 60 days of adoption by the council of governments, the department shall determine whether or not the final allocation plan is consistent with the existing and projected housing need for the region, as determined pursuant to Section 65584.01. The department may revise the determination of the council of governments if necessary to obtain this consistency.

(i) Any authority of the council of governments to review and revise the share of a city or county of the regional housing need under this section shall not constitute authority to revise, approve, or disapprove the manner in which the share of the city or county of the regional housing need is implemented through its housing program.

**§ 65584.06.** Distribution of housing needs for cities and counties without council of governments -  
OMITTED

**§ 65584.07.** Conditions for reducing share of regional housing needs of county

(a) During the period between adoption of a final regional housing needs allocation until the due date of the housing element update pursuant to Section 65588, the council of governments, or the department, whichever assigned the county's share, shall reduce the share of regional housing needs of a county if all of the following conditions are met:

(1) One or more cities within the county agree to increase its share or their shares in an amount equivalent to the reduction.

(2) The transfer of shares shall only occur between a county and cities within that county.

(3) The county's share of low-income and very low income housing shall be reduced only in proportion to the amount by which the county's share of moderate- and above moderate-income housing is reduced.

(4) The council of governments or the department, whichever assigned the county's share, shall approve the proposed reduction, if it determines that the conditions set forth in paragraphs (1), (2), and (3) above have been satisfied. The county and city or cities proposing the transfer shall submit an analysis of the

factors and circumstances, with all supporting data, justifying the revision to the council of governments or the department. The council of governments shall submit a copy of its decision regarding the proposed reduction to the department.

(b) The county and cities which have executed transfers of regional housing need pursuant to this section shall amend their housing elements and submit them to the department for review pursuant to Section 65585.

All materials and data used to justify any revision shall be made available upon request to any interested party within seven days upon payment of reasonable costs of reproduction unless the costs are waived due to economic hardship. A fee may be charged to interested parties for any additional costs caused by the amendments made to former subdivision (c) of Section 65584 that reduced from 45 to 7 days the time within which materials and data were required to be made available to interested parties.

(c) In the event an incorporation of a new city occurs after the council of governments, or the department for areas with no council of governments, has made its final allocation under this section, the city and county may reach a mutually acceptable agreement on a revised determination and report the revision to the council of governments and the department, or to the department for areas with no council of governments. If the affected parties cannot reach a mutually acceptable agreement, then either party may request the council of governments, or the department for areas with no council of governments, to consider the facts, data, and methodology presented by both parties and make the revised determination.

The revised determination shall be made within one year of the incorporation of the new city based upon the methodology described in subdivision (a) and shall reallocate a portion of the affected county's share of regional housing needs to the new city. The revised determination shall neither reduce the total regional housing needs nor change the previous allocation of the regional housing needs assigned by the council of governments or the department, where there is no council of governments, to other cities within the affected county.

§ 65584.1. Fees to cover costs of distributing regional housing needs - OMITTED

§ 65584.2. Review or appeal of allocation data pertaining to locality's share of regional housing needs - OMITTED

§ 65584.3. (Operative date contingent)Housing element adopted by city incorporated to promote commerce and industry in Los Angeles County - OMITTED

§ 65584.4 [Blank]

§ 65584.5. Transfer of share of regional housing needs to another city or county

(a) A city or county may transfer a percentage of its share of the regional housing needs to another city or county, if all of the following requirements are met:

(1) Both the receiving city or county and the transferring city or county comply with all of the conditions specified in subdivision (b).

(2) The council of governments or the department reviews the findings made pursuant to paragraph (2) of subdivision (c).

(3) The transfer does not occur more than once in a five-year housing element interval pursuant to subdivision (b) of Section 65588.

(4) The procedures specified in subdivision (c) are met.

(b)(1) Except as provided in paragraph (5) of subdivision (c) of Section 65584, a city or county transferring a share of its regional housing needs shall first have met, in the current or previous housing element cycle, at least 15 percent of its existing share of the region's affordable housing needs, as defined in Section 65584, in the very low and lower income category of income groups defined in [Section 50052.5 of the Health and Safety Code](#) if it proposes to transfer not more than 15 percent. In no event, however, shall the city or county transfer more than 500 dwelling units in a housing element cycle.

(2) A city or county shall transfer its regional housing needs in the same proportion by income group as the jurisdiction has met its regional housing needs.

(3) The transfer shall be only between jurisdictions that are contiguously situated or between a receiving city or county that is within 10 miles of the territory of the community of the donor city or county. If both the donor community and receiving community are counties, the donor county shall be adjacent to, in the same council of governments region as, and in the same housing market as, the receiving county. The sites on which any transferred housing units will be constructed shall be in the receiving city or county, and within the same housing market area as the jurisdiction of the donor city or county.

(4) The transferring and receiving city or county shall have adopted, and shall be implementing, a housing element in substantial compliance with Section 65583.

(5) The transferring city or county and the receiving city or county shall have completed, and provided to the department, the annual report required by subdivision (b) of Section 65400.

(c)(1) The donor city or county and the receiving city or county shall, at least 45 days prior to the transfer, hold a public hearing, after providing notice pursuant to Section 6062, to solicit public comments on the draft contract, including its terms, conditions, and determinations.

(2) The transferring and the receiving city or county shall do all of the following:

(A) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need pursuant to the terms of the agreement will not cause or exacerbate racial, ethnic, or economic segregation and will not create a detrimental financial impact upon the receiving city or county.

(B) Adopt a finding, based on substantial evidence on the record, that the transfer of the regional housing need will result in the construction of a greater number of similar type dwelling units than if the transfer does not occur.

(3)(A) The transferring city or county and the receiving city or county shall enter into an agreement to transfer units eligible under subdivision (b). A copy of this agreement shall be sent to the council of governments and the department to be kept on file for public examination.

(B) The agreement shall include a plan and schedule for timely construction of dwelling units, including, in addition to site identification, identification of and timeframes for applying for sufficient subsidy or mortgage financing if the units need a subsidy or mortgage financing, and a finding that sufficient services and public facilities will be provided.

(4) At least 60 days prior to the transfer, the receiving city or county planning agency and the transferring city or county planning agency shall submit to the department a draft amendment to reflect the identified transferred units. A transferring agency may reduce its housing needs only to the extent that it had not previously reduced its housing needs pursuant to paragraph (2) of subdivision (b) of Section 65583. A county planning agency that has its share of the regional housing need reduced pursuant to paragraph (5) of subdivision (c) of Section 65584 shall comply with this section. A receiving city or county shall, in addition to any other provisions of the article, identify in its housing element sufficient sites to meet its initial low- and moderate-income housing needs and sufficient sites to meet all transferred housing needs.

(5) The department shall review the draft amendment and report its written findings to the planning agency within 45 days of its receipt.

(6) The department's review shall follow the same procedure, requirements, and responsibilities of Sections 65583, 65585, 65587, and 65589.3. The court shall consider any written findings submitted by the department.

(d) No transfer made pursuant to this section shall affect the plans for a development that have been submitted to a city or county for approval 45 days prior to the adoption of the amendment to the housing element.

(e) No transfer made pursuant to this section shall be counted toward any ordinance or policy of a locality that specifically limits the number of units that may be constructed.

(f) The Attorney General or any other interested person shall have authority to enforce the terms of the agreement and the provisions of this section.

(g) For a period of five years after the transfer occurs, the report required by subdivision (b) of Section 65400 shall include information on the status of transferred units, implementation of the terms and conditions of the transfer contract, and information on any dwelling units actually constructed, including the number, type, location, and affordability requirements in place for these units.

(h)(1) At least 60 days prior to the proposed transfer, the donor city or county shall submit the proposed agreement to the council of governments, or to the department if there is no council of governments that serves the city or county, for review. The governing board of the council or the director shall determine whether there is substantial evidence to support the terms, conditions, and determinations of the agreement and whether the agreement complies with the substantive and procedural requirements of this section. If the council or the director finds that there is substantial evidence to support the terms, conditions, and determinations of the agreement, and that the agreement complies with the substantive and procedural requirements of this section, the participating jurisdictions may proceed with the agreement. If the governing board or the director finds that there is not substantial evidence to support the terms, conditions, and findings of the agreement, or that the agreement does not comply with the substantive and procedural requirements of this section, the board or the director may make recommendations for revising or terminating the agreement. The participating jurisdictions shall then include those revisions, if any, or terminate the agreement.

(2) The council or the director may convene a committee to advise the council or the director in conducting this review. The donor city or county and the receiving community shall pay the council's or the department's costs associated with the committee. Neither the donor city or county, nor the receiving city or county, may expend moneys in its Low and Moderate Income Housing Fund of its redevelopment agency for costs associated with the committee.

(3) Membership of the committee appointed pursuant to paragraph (2) shall include all of the following:

(A) One representative appointed by the director.

(B) One representative appointed by the donor agency.

(C) One representative appointed by the receiving community.

(D) Two low- and moderate-income housing advocates, appointed by the director, who represent those persons in that region.

(i)(1) The receiving city or county shall construct the housing units within three years of the date that the transfer contract is entered into pursuant to this section. This requirement shall be met by documenting that a building permit has been issued and all fees have been paid.

(2) Any portion of a regional share allocation that is transferred to another jurisdiction, and that is not constructed within the three-year deadline set forth in paragraph (1), shall be reallocated by the council of governments to the transferring city or county, and the transferring city or county shall modify its zoning ordinance, if necessary, and amend its housing element to reflect the reallocated units.

(3) If, at the end of the five-year housing element planning period, any portion of a regional share allocation that is transferred to another jurisdiction is not yet constructed, the council of governments shall add the unbuilt units to the normal regional fair share allocation and reallocate that amount to either of the following:

(A) The receiving city, if the three-year deadline for construction has not yet occurred; or

(B) The transferring city, if the three-year deadline for construction has occurred.

(4) If the transferred units are not constructed within three years, the nonperforming jurisdictions participating in the transfer of regional share allocations shall be precluded from transferring their regional shares, pursuant to this section, for the planning period of the next periodic update of the housing element.

(j) On or after January 1, 2000, no transferring city or county shall enter into an agreement pursuant to this section unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date.

(k) If Article XXXIV of the California Constitution is applicable, the receiving city or county shall certify that it has sufficient authority under Article XXXIV of the California Constitution to allow development of units transferred pursuant to this section.

(l) The receiving city or county shall not, within three years of the date of the transfer agreement entered into pursuant to this section, or until transferred units are constructed, whichever is longer, enter into a contract to transfer units outside the territorial jurisdiction of the agency pursuant to this section.

(m) Communities that have transferred a portion of their share of the regional housing need to another city or county pursuant to this section shall comply with all other provisions of law for purposes of meeting the remaining regional housing need not transferred, including compliance with the provisions of Section 65589.5.

(n) As used in this section, "housing market area" means the area determined by a council of governments or the department pursuant to Section 65584, and based upon market demand for housing, employment opportunities, the availability of suitable sites and public facilities, and commuting patterns.

(o) This section shall not be construed to interfere with the right of counties to transfer shares of regional housing needs pursuant to paragraph (5) of subdivision (c) of Section 65584.

**From**

§ 65584.6. Use by Napa County of funds for affordable housing units to meet part of its share of regional need for lower income housing - OMITTED

**to and including**

§ 65589.8. Satisfaction of local affordable housing unite requirement by construction of rental housing  
- OMITTED

**ATTACHMENT B**

**DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT  
(HCD) LETTER**

## DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

## Division of Housing Policy Development

1800 Third Street, Suite 430  
P. O. Box 952053  
Sacramento, CA 94252-2053  
(916) 323-3177  
FAX (916) 327-2643



September 29, 2005

Mr. Henry Gardner  
Executive Director  
Association of Bay Area Governments  
P.O. Box 2050  
Oakland, CA 94604-2050

RECEIVED

SEP 30 2005

EXECUTIVE DIRECTOR'S  
OFFICE

Dear Mr. Gardner:

**Re: ABAG Regional Housing Needs Determination**

This letter is in response to your request for an extension for Association of Bay Area Governments' (ABAG) fourth revision of the Regional Housing Needs Determination (RHND), pursuant to Section 65584.02 of the California Government Code. As you know, this statutory provision authorizes such an extension in order to coordinate the RHND process with the next Regional Transportation Plan (RTP) update. The request is to accommodate coordination of the projections and forecasting processes of the next RHND for your region with the Metropolitan Transportation Commission's (MTC's) development of the 2008 RTP.

Based on correspondence, including letters of August 9, 2005 and May 2, 2005, and staff discussions including a consultation between Department and ABAG staff on May 25, 2005, the Department is granting the two-year extension of the housing element due date for jurisdictions within your region, conditioned as outlined below. As a result, the due date for updating housing elements for local governments within ABAG is extended until June 30, 2009. This means the next (fourth) statutory due date for updates of housing elements within the ABAG region, as otherwise set forth in Government Code Section 65588 (e)(2), is extended to June 30, 2009, instead of June 30, 2007.

The RHND process will be implemented consistent with the enclosed schedule (Attachment I), with the identified tasks to be undertaken no later than the dates indicated. During the consultation, ABAG staff agreed the timeline allows sufficient time and flexibility to meet all the deadlines in order for ABAG to adopt a final Regional Housing Needs Allocation (RHNA) no later than June 30, 2008 (12 months prior to the extended housing element update due date of June 30, 2009). As you are aware, jurisdictions within your region may request use of a subregional allocation process; thus the deadlines for this option are included in the enclosure if it is be used. If the subregional option is not used, those dates are not applicable. The Department encourages ABAG to assess early on whether there is interest in the subregional process, as it would be necessary to incorporate this process into the methodology for the allocation within the region.



As also discussed, Government Code Section 65584.02(a)(2) requires ABAG to provide additional information to this Department prior to the regional determination by the Department, including data issues and assumptions such as vacancy and replacement allowances, and comparisons between ABAG and DOF population and household assumptions and projections. For the purpose of using the most recent information, the agreement was made that ABAG and this Department will consult on these data assumptions in early 2006.

To ensure the effective implementation of this new collaborative process, it is especially critical that procedural timelines be met. The Department therefore urges you to take every opportunity to work closely with your local government members to undertake the required statutory steps as early as possible. It is also important to do so in a manner whereby the processes and distinctions between the RHNA and RTP forecasting and processes are clear and, while dovetailed, are understandable.

As you know, the extension process was developed by the Housing Element Working Group (Working Group) to facilitate better coordination between housing and transportation planning. The leadership and commitment of Working Group members, including ABAG, were critical to reaching the necessary consensus to adopt comprehensive reforms. The Department also recognizes and appreciates your commitment to support the collaborative efforts and goals to incorporate further improvements to the long-range housing and transportation planning processes.

However, the State continues to face a growing housing crisis that threatens California's economic prosperity and long-term competitiveness as well as the quality of life for all residents. The housing crisis is reflected in declining affordability and increasing home prices. According to the California Association of Realtors, the July 2005 housing affordability index (the percentage of households that can afford a median priced home) dropped to 12 percent for San Francisco Bay Area. In the northern counties of Sonoma and Napa, the affordability has dropped to less than 10 percent.

As a result, it is critical that ABAG reinforce each community's obligation to continue implementing their existing housing elements and approving additional housing to meet existing and projected housing needs. This is especially critical during the extension period, because as you know, the RHNA represents the minimum need for additional housing during the planning period and does not represent a cap. Local governments should also be mindful of Government Code Sections 65008, 65863, 65913, and 65589.5 as they continue implementing their housing elements and considering applications for housing projects.

Mr. Henry Gardner  
Page 3

The Department looks forward to continuing working with ABAG on the regional housing need process. If you, or your staff, have any questions, please feel free to contact Linda Wheaton, Assistant Deputy Director, at (916) 327-2642.

Sincerely,

A handwritten signature in cursive script that reads "Cathy E. Creswell".

Cathy E. Creswell  
Deputy Director

Enclosure

cc: Paul Fassinger, Director, Research and Analysis, ABAG  
Janet McBride, Planning Director, ABAG

# Attachment I

## Schedule for ABAG Regional Housing Needs Allocation

Regional Allocation Deadlines		Allocation Deadlines if Subregional Option Used	
2006			
April 30	ABAG/HCD consultation on region's share of statewide housing need [65584.02(b)]		
June 30	ABAG requests information from jurisdictions for developing methodology [65584.04(b)(1)]	August 31	Deadline for creating subregional entities [65584.03(a)]
December 31	ABAG develops a proposed methodology [65584.04(a)]. Start of 60-day public comment period about methodology [65584.04(h)]; must include at least one public hearing [65584.04(c)]	December 31	The subregion develops a proposed methodology [65584.04(a)]. Start of 60-day public comment period about methodology [65584.04(h)]; must include at least one public hearing [65584.04(c)]
2007			
January – March	ABAG adopts a final methodology [65584.04(h)]	January – March	Subregion adopts a final methodology [65584.04(h)]
March 1	HCD determination of regional housing need [65584.02(a)(1)]		
Prior to June 30	ABAG issues DRAFT RHNA [65584.05(a)].	May 1	ABAG determination of housing need assigned to each subregion. At least one public hearing must be held prior to allocation [65584.03(c)].
Prior to June 30	ABAG reviews DRAFT RHNA's of subregions for compliance with Gov. Code Sec. 65584.03(d); if noncompliant, ABAG completes allocation process for affected jurisdictions	Prior to June 30	Subregion issues DRAFT RHNA's [65584.05(a)].
Prior to August 31	Local jurisdictions may request revisions to DRAFT allocation [65584.05(b)]	Prior to August 31	Local jurisdictions may request revisions to DRAFT allocation [65584.05(b)]
Prior to October 31	ABAG responds to revision requests (within 60 days of submittal) [65584.05(c)]	Prior to October 31	Subregion responds to revision requests (within 60 days of submittal) [65584.05(c)]
December – February	Local jurisdictions may appeal DRAFT RHNA (60 day period)	December – February	Local jurisdictions may appeal DRAFT RHNA (60 day period)
2008			
January- Feb.	Continuation of 60 days for Local jurisdictions to appeal DRAFT RHNA	January- Feb.	Continuation of 60 days for Local jurisdictions to appeal DRAFT RHNA
January – April	ABAG public hearing on appeals (within 60 days after deadline for filing appeal) [65584.05(e)].	January – April	Subregion public hearing on appeals (within 60 days after deadline for filing appeal) [65584.05(e)].
February – April	ABAG issues FINAL RHNA proposal (within 45 days of end of 60-day appeals period) [65584.05(f)].	February – April	Subregion issues FINAL RHNA proposal (within 45 days of end of 60-day appeals period) [65584.05(f)].
February – June	ABAG public hearing to adopt FINAL allocation (within 45 days of issuing final allocation) [65584.05(h)]. Submit adopted Final Allocation to HCD.	February – March (prior to ABAG's)	Subregion public hearing to adopt FINAL allocation (within 45 days of issuing final allocation) [65584.05(h)]. Subregions submit FINAL allocations to ABAG
August	HCD completes review of FINAL RHNA [65584.05(h)].		
2009			
June 30	Adopted Housing Element updates due to HCD, preceded by submittal of draft elements		

**ABAG Executive Board Meetings**

			2006	2007	2008
	January 19	July 20	January 18	July 19	January 17
	March 16	September 21	March 15	September 20	March 20
	May 18	November 16	May 17	November 15	May 15
					July 17 September 18 November 20

Notes: This task schedule supercedes the due dates that would be applicable if the process were to be implemented pursuant to Section 65584 rather than pursuant to Section 65584.02. The planning period for the housing element updates will be July 1, 2009 through June 30, 2014. The allocation period for the regional housing need for the ABAG region will be January 1, 2006 through June 30, 2014; these dates represent the date for which the most current estimates of local housing stock will be available from the Department of Finance (DOF), and the end of the planning period, respectively.